

EXHIBIT 8

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

IN RE: VIOXX PRODUCTS
LIABILITY LITIGATION

MDL DOCKET NO. 1657
NEW ORLEANS, LOUISIANA
APRIL 27, 2006, 1:00 P.M.

TRANSCRIPT OF PROCEEDINGS
HEARD BEFORE THE HONORABLE ELTON E. FALLON
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE PLAINTIFF: HERMAN HERMAN KATZ & COTLAR
BY: RUSS M. HERMAN, ESQUIRE
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NEW ORLEANS, LA 70170

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FOR THE DEFENDANT: STONE PIGMAN WALTHER WITTMANN
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BARTLIT BECK HERMAN
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BY: ANDY GOLDMAN, ESQUIRE
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1 ALSO PRESENT:

2 GERALD MEUNIER, ESQUIRE
3 DAWN BARRIOS, ESQUIRE
4 DREW RANIER, ESQUIRE
5 GRANT KAISER, ESQUIRE

6 MARK ROBINSON, ESQUIRE
7 EBEN FLASTER, ESQUIRE
8 DOUG MARVIN, ESQUIRE
9 P. LEIGH O'DELL, ESQUIRE

10 TED WACKER, ESQUIRE
11 ED BLIZZARD, ESQUIRE
12 SCOTT NABERS, ESQUIRE
13 TOM KLINE, ESQUIRE

14 MIKAL WATTS, ESQUIRE
15 PETE KAUFMAN, ESQUIRE
16 ADAM HOEFELICH, ESQUIRE

17 OFFICIAL COURT REPORTER: CATHY PEPPER, CCR, RPR, CRR
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21 PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY. TRANSCRIPT
22 PRODUCED BY COMPUTER.
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02:18PM 1 questions or show any documents they want to. What we're saying
02:19PM 2 is that we -- that if we're not allowed even to talk to these
02:19PM 3 physicians before the deposition, and they are, the reason --
02:19PM 4 THE COURT: I got it. I understand the issue. Look,
02:19PM 5 that's precisely it. There is no question that the plaintiffs
02:19PM 6 have the burden of dealing with the learned intermediary so you
02:19PM 7 have to ask though questions. That's a key thing.

02:19PM 8 The issue is, whether you workshop the guy beforehand.

02:19PM 9 Now, the reason I've allowed the plaintiffs to talk to the
02:19PM 10 treating physicians because that's the treating physician. I've
02:19PM 11 excluded the defendants from talking to the treating physicians.
02:19PM 12 And I think the defendant is right, from the standpoint of

02:19PM 13 talking with him. If you talk with him, the whole purpose of
02:19PM 14 talking with him is to ask him about private matters about your
02:19PM 15 client and not to expose them or give them one-sided
02:20PM 16 presentations about the other side.

02:20PM 17 If it's not that way, I would have to open it up to the
02:20PM 18 defendant to talk with them. They ought to be able to do the
02:20PM 19 same thing, and I don't feel they ought to do the same thing
02:20PM 20 because it's a private physician.

02:20PM 21 I think you've got a right to talk to your private
02:20PM 22 physicians. The concern that I have is sending them material
02:20PM 23 that is outside of the realm of the record of the private person.
02:20PM 24 I don't have any problem with you're asking the questions. Now,
02:20PM 25 the only other way I can do it is to allow the defendants to talk

02:20PM 1 to the physicians but to not ask them questions in their private
02:20PM 2 discussions about the plaintiffs, and that's not going to work
02:21PM 3 too well.

02:21PM 4 It just seems to me that you ought to have a right to
02:21PM 5 talk to physicians by themselves about your client, but I'm
02:21PM 6 concerned about the fairness of talking to the physicians and
02:21PM 7 preventing the defendants from talking to the physicians and
02:21PM 8 letting you go into other things. It just doesn't seem
02:21PM 9 reasonable to me.

02:21PM 10 MR. HERMAN: I understand your comments, Your Honor. I
02:21PM 11 have another view, another point of vantage. These physicians
02:21PM 12 have been contacted 330 times by Merck. They've gotten one side
02:21PM 13 of the story. They are fully prepared by Merck to go into a
02:21PM 14 deposition. They are invited to Merck conferences, free
02:21PM 15 conferences at hotels. They are wined and dined. They are sent
02:21PM 16 all the Merck information long before our clients die or suffer a
02:21PM 17 stroke. And they are very defensive, too.

02:22PM 18 After all, we are plaintiff lawyers. Half of them,
02:22PM 19 when we go see them, believe that they are targets in a
02:22PM 20 malpractice suit. All we're doing is balancing the field,
02:22PM 21 saying, Look, you were contacted by Merck 330 times, your wife is
02:22PM 22 a Merck representative, and you prescribed this. What those
02:22PM 23 eight jurors want to know is if you had had the full story at the
02:22PM 24 time you prescribed, would you have prescribed it, and that's the
02:22PM 25 key questions all these jurors want to know and they know it.